

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

UNITED STATES OF AMERICA,

6:18-MJ-00033-JR  
ORDER

v.

THOMAS ROBERT MURPHY,

Defendant.

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RUSSO, Magistrate Judge:

Pursuant to the USA's motion, the Court convened a hearing to determine defendant's competency to stand trial. All parties consented to the jurisdiction of a Magistrate Judge.

Pursuant to this Court's Order dated February 26, 2018, the defendant was committed to the Federal Detention Center, SeaTac, Washington for a period of study to determine his mental competency and criminal responsibility. The forensic evaluation, performed by Dr. Ryan Nybo, concluded that defendant was incompetent to stand trial. Dr. Nybo did not render an opinion regarding defendant's sanity at the time of offense.

Pursuant to 18 U.S.C. 4247(d), the court heard argument from counsel, admitted government's Exhibit 1, allowed witness testimony and cross-examination, and afforded the defendant an opportunity to testify. Based on the evidence offered during the hearing including

the testimony of Dr. Nybo, Dr. Nybo's written report, and defendant's testimony, the Court finds defendant incompetent to stand trial. Specifically, the Court finds that defendant lacks a present ability to consult with his lawyer with a reasonable degree of rational understanding, and a rational as well as factual understanding of the proceedings against him. Dusty v. United States, 362 U.S. 402 (1960); and 18 U.S.C. 4241. Therefore, the Court orders the defendant to undergo a four-month treatment or habilitation service to be administered at the appropriate custodial facility as determined by the Bureau of Prisons. 18 U.S.C. 4241(d).

### CONCLUSION

Defendant is found incompetent to stand trial and is ordered to undergo treatment or habilitation services to be administered by the Bureau of Prisons. Defendant's Motion to Withdraw for Appointment of Counsel (doc. 14) is denied as moot. A change of plea/sentencing hearing is scheduled on December 12, 2018, if appropriate.

IT IS SO ORDERED.

DATED this 17th day of July 2018.

s/Jolie A. Russo  
JOLIE A. RUSSO  
United States Magistrate Judge